

Baltimore County Court, acting upon the statement of the bill in this respect, ordered the sheriff to detain the defendant in his custody until he should give bond, with approved surety, in the penalty of five thousand dollars. Now, assuming that the defendant is not worth more than the sum stated in his answer, (and no affidavits have been taken to contradict him,) it is manifest, he would, or might be, subject to great difficulty in giving the bond required of him. In the case of *Denton vs. Denton*, Chancellor Kent felt the difficulty arising from the uncertainty of the amount of the alimony, and, consequently, the uncertainty of the sum for which to mark the writ of *ne exeat*, though he regarded the difficulty as not insuperable, as the amount of alimony would have a material reference to the rank of the parties, and the property of the husband, and in that case he was shown, by affidavits, to be worth \$200,000. But here this writ is marked, if the answer speaks the truth, in a sum ten times as large as the value of the husband's property. Now, although it is to be assumed, in this case, that upon a bill for alimony the writ of *ne exeat* may be granted *pendente lite*, yet there can be no doubt, that some caution and jealousy is to be observed in the application of the rule, lest great injustice may be done to the party against whom it issues. 2 *Story's Com. on Equity*, section 1468.

This is a case, then, in which the writ issued upon the *ex parte* application of the wife, verified alone by her affidavit, before a decree had passed establishing her right to alimony, and in which her right is disputed by strong statements in the answer imputing gross misconduct to her. The allegation of an intention to remove from the state, is positively denied by the defendant, and the question now is, whether, according to the case as presented by bill and answer, the writ shall, or shall not, be discharged.

It would seem, upon principle, that where the writ issues upon the naked unsupported oath of the complainant, it should be discharged upon the counter oath of the defendant, and especially this seems reasonable and proper when the point of difference has reference to the intention of the defendant, in re-